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8 **Attorneys for Plaintiff,**
9 **PHOENIX SOLUTIONS, INC.**

10 **UNITED STATES DISTRICT COURT**
11 **NORTHERN DISTRICT OF CALIFORNIA**
12 **SAN FRANCISCO**

13 PHOENIX SOLUTIONS, INC., a
14 California corporation,

15 Plaintiff,

16 v.

17 WELLS FARGO BANK, N.A., a
18 Delaware corporation,

19 Defendant.

CASE NO. CV08-0863 MHP

20 **PHOENIX SOLUTIONS, INC.'S**
21 **NOTICE OF MOTION AND MOTION**
22 **FOR SUMMARY JUDGMENT RE:**
23 **DEFENDANT WELLS FARGO BANK,**
24 **N.A.'S AFFIRMATIVE DEFENSES**
25 **ALLEGING INEQUITABLE**
26 **CONDUCT**

27 Date: November 10, 2008

28 Time: 2:00 p.m.

Hon. Marilyn H. Patel

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on November 10, 2008, at 2:00 p.m., or as soon as counsel may be heard by the above-entitled Court, in the courtroom of the Honorable Marilyn H. Patel, Plaintiff Phoenix Solutions, Inc. ("Phoenix") will and hereby does move the Court for an order granting summary judgment on Wells Fargo Bank, N.A.'s ("Wells Fargo") affirmative defenses alleging inequitable conduct.

This motion is based on this Notice of Motion and Motion, the accompanying Memorandum of Points and Authorities, and Declaration of R. Joseph Trojan and Exhibits attached thereto, the Proposed Order Granting Plaintiff's Motion for Summary Judgment, all pleadings and papers on file in this action, and upon such other matters as may be presented to the Court at the time of hearing.

Respectfully submitted,

TROJAN LAW OFFICES

By

September 8, 2008

/s/R. Joseph Trojan

R. Joseph Trojan
Attorneys for Plaintiff,
Phoenix Solutions, Inc.

TROJAN LAW OFFICES
BEVERLY HILLS

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO

PHOENIX SOLUTIONS, INC., a
California corporation,

Plaintiff,

v.

WELLS FARGO BANK, N.A., a
Delaware corporation,

Defendant.

CASE NO. CV08-0863 MHP

**[PROPOSED] ORDER GRANTING
PHOENIX SOLUTIONS, INC.'S
MOTION FOR SUMMARY
JUDGMENT RE: DEFENDANT
WELLS FARGO BANK, N.A.'S
AFFIRMATIVE DEFENSES
ALLEGING INEQUITABLE
CONDUCT**

Date: November 10, 2008

Time: 2:00 p.m.

Hon. Marilyn H. Patel

Proposed Order re: Plaintiff's Motion for
Summary Judgment re: Inequitable
Conduct

CV08-0863 MHP

This matter came before the Court on motion brought by Plaintiff Phoenix Solutions, Inc. ("Phoenix") for summary judgment on Wells Fargo Bank, N.A.'s ("Wells Fargo") affirmative defenses alleging inequitable conduct.

The Court, having considered all papers and oral arguments in support thereof, and in opposition thereto, finds that Phoenix is entitled to judgment as a matter of law, and for good cause appearing,

IT IS HEREBY ADJUDGED, ORDERED AND DECREED:

1. Wells Fargo's Thirty-Fifth Affirmative Defense is dismissed with prejudice.
2. Wells Fargo's Thirty-Sixth Affirmative Defense is dismissed with prejudice.
3. Wells Fargo's Thirty-Seventh Affirmative Defense is dismissed with prejudice.
4. Wells Fargo's Thirty-Eighth Affirmative Defense is dismissed with prejudice.

Dated: _____

Hon. Marilyn H. Patel
United States District Court Judge

Presented by:
Trojan Law Offices

/s/Dylan C. Dang
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